

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SEAN H. BENNETT,

Plaintiff,

v.

Case No. 4:06-CV-90

Hon. Richard Alan Enslen

VIRGIL BERNERO, *et al.*,

Defendants.

ORDER

Plaintiff Sean Bennett has moved for reconsideration of the September 1, 2006 *sua sponte* dismissal of his Complaint against state legislators. Oral argument or further briefing is unnecessary.

Pursuant to Western District of Michigan Local Civil Rule 7.4(a), reconsideration is appropriate only when the movant “demonstrate[s] a palpable defect by which the Court and the parties have been mislead . . . [and] that a different disposition must result from the correction thereof.” Plaintiff’s Motion fails to meet this standard and also the standards for relief under Federal Rule of Civil Procedure 60. Plaintiff complains about the *sua sponte* nature of the dismissal. However, *sua sponte* dismissals of plainly meritless claims are expressly permitted by 28 U.S.C. § 1915(e)(2) and Federal Rules of Civil Procedure 12(b)(1) and 12(h)(3). *See Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999). While Plaintiff has claimed generally that Defendants conduct was not protected by legislative immunity, he has failed to identify particular conduct which is both not protected by legislative immunity and which could give rise to a viable legal claim.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Sean H. Bennett’s Motion to Reverse Dismissal of Complaint (Dkt. No. 10) is **DENIED**.

DATED in Kalamazoo, MI:
October 2, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE